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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,676	07/13/2001	Michael W. Austin	210_234	5184

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EXAMINER
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NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

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DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/904,676	AUSTIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jennifer E. Novosad	3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 February 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 17-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 25 February 2003 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

This final Office action is in response to the amendment filed February 25, 2003 (Paper No. 7). *Accordingly*, claims 1-16 have been canceled and claims 17-20 have been added.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on November 13, 2002 (Paper No.5) was filed after the mailing date of the first Office action on August 29, 2002 (Paper No. 4). The submission is in compliance with the provisions of 37 CFR 1.97. *Accordingly*, the information disclosure statement is being considered by the examiner.

### ***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on February 25, 2003 (Paper No. 7) have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

*However*, the drawings filed on July 13, 2001, are objected to because it appears that the lead line utilized with numeral 16 should terminate in an arrowhead. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- (a) "series of three dimensional frames" as in claim 17, line 2 (It is noted that the specification refers to only one "frame structure" - see page 3, lines 3-4.);
- (b) "collapsible seal means" as in claim 17, line 6 (It is noted that the specification refers to "a compressible seal".); and
- (c) "end piece of one frame opening" as in claim 17, line 10 (It is noted that the specification refers to "side" pieces - see line 11 of page 3.).

The disclosure is objected to because on page 3, lines 13, 17, 24 and 28, it appears that --member-- should be inserted after "panel perimeter", in view of claim 18 (line 3). Appropriate correction is required.

***Claim Objections***

Claims 19 and 20 are objected to because of the following informalities:

In claim 19, it appears that "connected a said end piece" (in line 3) is grammatically incorrect. *To correct this*, it appears that "a" should be changed to --to--.

In claim 19, it is suggested that --together-- be inserted after "flange" in line 4.

In line 2 of claim 20, --a-- should be inserted after "to".

In line 3 of claim 20, "panel" should be changed to --panels--.

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In line 4 of claim 20, it appears that "a" should be changed to --the--, since the closed position has been set forth in claim 17.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the *first* paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

*Firstly*, the original specification and drawings fail to have adequate support for the limitation "collapsible seal means contained in each frame that surround each of the openings" (see lines 6-7). It is noted that the specification does not state that the seals (32) "surround" any portion of the frame (structures) and specifically the "openings" thereof. It is further noted that since Figures 3 and 4 are partial views and Figure 1 does not show the *details* of the seals, the seals are not shown "surrounding" the openings. It is further noted that the specification refers to a "compressible" seal (see lines 13-14 of page 3). *Thus*, <sup>^</sup> ~~This~~ the reference to a "collapsible" seal means constitutes new matter since "collapsible" defines a different functioning than the originally disclosed terminology of --compressible--.

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*Secondly*, the original specification and drawings fail to have adequate support for the limitations "insulated" panels as in line 5 of claim 17 and "insulation" material filling as in line 3 of claim 18. It is noted that the specification (see lines 6 and 7 of page 3) refers to "wall panels" and that the last paragraph of page 5 refers to the material as "a curable polyurethane foam". The lack of support for the "insulation" function in the original disclosure results in its inclusion now constituting new matter.

The following is a quotation of the *second* paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 17 (see line 6), the word "means" is preceded by the word(s) "collapsible seal" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Further, the limitation "sealing means" (see line 15) lacks proper antecedent basis in the claim.

The limitation "when the outer surface is flush with the frame" in line 8 of claim 17 renders the claim indefinite since the language of the limitation appears to be vague and/or indefinite. *In particular*, it appears, from the drawings, that each panel is flush with a "different" (or separate) portion of the frame. *Further*, it is unclear what is meant by the recitation "said seal means arranged to close against an inside surface of each panel" (see line 7). *In particular*, since

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the panels have been set forth as being mounted in the openings it is unclear how the seal means "close" against the (insulated) panels, i.e., it appears, from the drawings, that the seal means would be closed against the "hinged" panel since the hinge panel opens and closes.

The limitation "connected to an end piece of one frame opening" in line 10 of claim 17 renders the claim indefinite since this limitation appears to be inaccurate.

Claim 18 recites the limitation "each panel" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is noted that claim 17 sets forth insulated panel and a hinged panel. *Accordingly*, it is unclear whether all of the panels comprise the structure set forth in claim 18.

Claim 19 recites the limitations "the hinged panel perimeter member" in lines 2-3 and "the frame" in line 3. There is insufficient antecedent basis for these limitations in the claim. It is noted that the claims set forth "frames", i.e., plurality, so it is unclear whether claim 19 is referring to the plurality or just one "frame", i.e., singular.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*Insomuch as the claims are best understood (in view of the rejections under 35 USC § 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, as advanced above), claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Benthem et al. '000 in view of Hampel '672.*

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Van Benthem *et al.* '000 disclose a unit comprising a series of three dimensional frames that are connected together whereby each frame has rectangular openings (generally between elements 4 and 6) in top, bottom and side sections thereof; insulated panels (2) are mounted in the openings thereby enclosing each frame; at least one hinged panel (10) connected to an end piece (generally at 14) of one of the frames by a hinge (12) so that the panel (10) can move between an open and a closed position within a frame opening; seals (58) contained in each frame arranged to close against an inside surface (generally at 56 in Figure 5) of the panel (10) when the outer surface (at 50) is flush against the frame; and each panel including a front and back cover, e.g., panel (10) has front (50) and back (52) covers, that are spaced apart by a panel perimeter member (unnumbered near 56 and 58 on the left side of Figure 5) and an insulation material filling (54) between the covers.

The claims differ from Van Benthem *et al.* '000 in requiring: (a) a living hinge connected to a panel and an end piece of a frame (claim 17) which defines an edge extrusion integrally connected to the panel, a mounting flange connected to the end piece and a hinge portion therebetween (claim 19); and (b) a latching means (claim 17).

Hampel '672 teaches a unit comprising a frame comprised of panels connected together and a panel (28) hinged to the frame by living hinges (206 - see Figure 10E) whereby the living hinges each comprise an edge extrusion (left side of Figure 10E), a mounting flange (right side of Figure 10E) connected together by a hinge portion (generally between 236); and a latching means (see Figure 11D) for securing the hinged panel (28) in the opening in the frame.

With respect to (a), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the unit of Van Benthem *et al.* '000 with a living

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hinge, as taught by Hampel '672, for ease in economy and manufacture since the hinge can be manufactured in one piece.

With respect to (b), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the unit of Van Benthem *et al.* '000 with a latching means so as to allow the panel to be closed within the frame thereby allowing for increased securing.

### ***Response to Arguments***

Applicants' arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment, filed February 25, 2003 (Paper No. 7), which recites "seal means" and "latching means" in lines 6 and 13, respectively.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.

Jennifer E. Novosad/jen  
April 24, 2003



DANIEL P. STODOLA  
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